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PTO/SB/64 (07-05)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)
1231ROG-US

First named inventor: Joseph Rogozinski

Application No.: 10/806,231

Art Unit: 3764

Filed: March 23, 2004

Examiner:

Title: MAN-MACHINE INTERFACE IMPROVEMENT

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OIPE/IAP**

OCT 27 2005

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

- ☒ Small entity-fee \$ 750 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- ☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

- A. The reply and/or fee to the above-noted Office action in the form of Substitute specification per 37 CFR 1.52(b) (identify type of reply):

- ☒ has been filed previously on March 16, 2005 with fee of ⁵⁰⁰~~\$250~~ per 37 CFR 1.17(l)
- ☐ is enclosed herewith. Total fee owed is thus ~~\$750~~ **\$500**

- B. The issue fee and publication fee (if applicable) of \$ _____

- ☐ has been paid previously on _____
- ☐ is enclosed herewith.

(Page 1 of 2)

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Adjustment date: 10/28/2005 TBESHAH1
09/13/2005 AKELLEY 00000013 10806231
02 FC:1999 -500.00 OP

PTO/SB/64 (07-05)

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3. Terminal disclaimer with disclaimer fee

☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

David Klein

Signature

17 August 2005

Date

David Klein

Typed or printed name

41,118

Registration Number, if applicable

Beit HaRof'im, 18 Menuha VeNahala Street, Room 27

Address

+972-8-949-5334

Telephone Number

Rehovot 76209, Israel

Address

Enclosures: ☒ Fee Payment☐ Reply☐ Terminal Disclaimer Form☐ Additional sheets containing statements establishing unintentional delay☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.26 Oct 2005
17 Aug 2005
Date*David Klein*

Signature

David Klein

Typed or printed name of person signing certificate



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/806,231	03/23/2004	Joseph Rogozinski	1231ROG-US

CONFIRMATION NO. 9863

ABANDONMENT/TERMINATION
LETTER

OC000000015217548

32964
 DEKEL PATENT LTD., DAVID KLEIN
 BEIT HAROFIM
 18 MENUHA VENAHALA STREET, ROOM 27
 REHOVOT, 76209
 ISRAEL

Date Mailed: 02/18/2005

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 08/04/2004.

- No reply was received.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the holding of abandonment within 2 months from the mailing of this notice of abandonment by filing a petition to withdraw the holding of abandonment under 37 CFR 1.181(a). No petition fee is required. The petition must be accompanied by a true copy of the originally filed reply and the item (s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503);
2. If the originally filed reply included a certificate of mailing or transmission in compliance with 37 CFR 1.8(a), a copy of the certificate of mailing or transmission and a statement in compliance with 37 CFR 1.8(b) (see MPEP §§ 512); or
3. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any petition to withdraw the holding of abandonment should be directed to OIPE.

If applicant did not previously file a complete reply within the time period set forth in the notice, applicant may file a petition to revive the application under 37 CFR 1.137.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(i); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/61.

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-

identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d). See MPEP § 711.03(c) and Form PTO/SB/64.

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

*A copy of this notice **MUST** be returned with the reply.*

3134
Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DEKEL PATENT LTD., DAVID KLEIN
BEIT HAROFIM
18 MENUHA VENAHALA STREET, ROOM 27
REHOVOT 76209 IL ISRAEL
AIR MAIL

COPY MAILED

SEP 13 2005

OFFICE OF PETITIONS

In re Application of
Joseph Rogozinski
Application No. 10/806,231
Filed: March 23, 2004
Attorney Docket No. 1231ROG-US

ON PETITION

This is a decision on the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," filed on August 17, 2005.

This application became abandoned for failure to reply timely to the Notice to File Corrected Application Papers mailed on June 4, 2004, which set a two-month extendable period to respond. Petitioner did not obtain any extensions of time for response. Accordingly, this application became abandoned on August 5, 2004. A Notice of Abandonment was mailed on February 18, 2005.

On March 16, 2005, petitioner filed a petition under 37 CFR 1.137(a) with the requisite petition fee, which was dismissed for failing to show that the entire period of delay was unavoidable. On August 17, 2005, petitioner filed to present petition for revival of the above-identified application. However, petitioner indicated the he paid a \$250.00 petition fee for filing the petition under 37 CFR 1.137(a) on March 16, 2005. Petitioner stated that the "[t]otal fee owed is thus \$750.00 - \$250 = \$500." In accordance with petitioner's instruction, the USPTO mistakenly applied the \$250.00 petition fee paid on March 16, 2005, for filing the petition under 37 CFR 1.137(a), towards the \$750.00 petition fee owed for filing the present petition.

The Office reminds petitioner that a grantable petition under 37 CFR 1.137(b) **must be accompanied** by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) **the petition fee as set forth in 1.17(m)**; (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in 1.20(d)) required pursuant to 37 CFR 1.137(d). However, petitioner did not submit the entire amount of \$750.00 on filing the present petition under 37 CFR 1.137(b).

Application No. 10/806,231

Page 2

Pursuant to 35 U.S.C. 41(a) (7), the Director shall charge the petition fee set forth in 37 CFR 1.17(m) on filing a petition for the revival of an unintentionally abandoned application. Unless the circumstances warrant the withdrawal of the holding of abandonment (*i.e.*, it is determined that the application is not properly held abandoned), the payment of a petition fee to obtain the revival of an abandoned application is a **statutory prerequisite to revival of the abandoned application**, and cannot be waived. Furthermore, the phrase "[o]n filing" in 35 U.S.C. 41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 CFR 1.137. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6 (1982), reprinted in 1982 U.S.C.C.A.N. 770 ("[t]he fees set forth in this section are due on filing the petition"). Thus, the Office: (1) will not refund the petition fee required by 37 CFR 1.17(l) or 1.17(m), regardless of whether the petition under 37 CFR 1.137 is dismissed or denied; and (2) will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.

On March 16, 2005, petitioner was required to pay the \$250.00 petition fee on filing the petition under 37 CFR 1.137(a) as a statutory prerequisite to revival of the abandoned application. Moreover, petitioner is not entitled to apply the \$250.00 petition fee towards the \$750.00 petition fee required on filing the present petition because the Office will not refund the \$250.00 fee regardless of the fact that the petition under 37 CFR 1.137(a) was dismissed. Accordingly, the Office will not reach the merits of the present petition until petitioner submit both a "Renewed Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," and the outstanding balance of \$250.00 for filing the petition under 37 CFR 1.137(b) within **TWO (2) MONTHS** of the mailing date of this decision. No extensions of time are permissible.

Further correspondence with respect to this matter should be addressed as follows and to the attention of Senior Petitions Attorney Christina Tartera Donnell:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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PTO/SB/21 (09-04)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/806,231	
	Filing Date	March 23, 2004	
	First Named inventor	Joseph Rogozinski	
	Art Unit	3764	
	Examiner Name		
Total Number of Pages in This Submission	8	Attorney Docket Number	1231ROG-US

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): Notice of Abandonment Sept 13 Decision Credit Card Form
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Dekel Patent Ltd.		
Signature	<i>David Klein</i>		
Printed name	David Klein		
Date	October 26, 2005	Reg. No.	41,118

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature			
Typed or printed name		Date	

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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